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May 23, 2014

VIA FACSIMILE

Honorable Paul G. Gardephe
Thurgood Marshall United States Courthouse
40 Foley Square, Chambers 2204
New York, New York 10007-1312

**Re: Lockheed Martin Corporation, et al. v. MTA, et al.
Civil Action No.: 09 Civ. 4077 (PGG)**

Dear Judge Gardephe:

Our firm is counsel to Plaintiff Lockheed Martin Corporation (“Lockheed Martin”) in the above referenced action. Lockheed Martin respectfully submits this joint letter on its behalf and on behalf of Defendants MTA Capital Construction Company and Metropolitan Transportation Authority (collectively “MTA”). Filing of the pre-trial order and other required submissions is scheduled for June 9, 2014. Filing of motions *in limine* and responses are scheduled for June 23, 2014 and July 1, 2014, respectively. Trial is scheduled to start on July 7, 2014.

After speaking with Your Honor’s law clerk, we understand that our trial will not start before July 21, 2014. We write to request that in light of the Court’s schedule, trial of this action be rescheduled for October 6, 2014.

I have conferred with my clients and witnesses and determined that a number of key witnesses will not be available for a late July and August trial because of plans they have made since we confirmed the July 7th start date with them. These witnesses, many of whom no longer are employed by the parties either live or work outside of the subpoena jurisdiction of Court, have confirmed they will be available in October. Counsel for the MTA, Mr. Lipton, believes that extending the trial into August may result in the unavailability of some of the MTA

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witnesses as well. Therefore, counsel for both sides respectfully ask that the trial be rescheduled to start on October 6, 2014.

We also request that the current date for filing of the pre-trial order and other submissions be adjusted from June 9, 2014 to July 9, 2014. Counsel for both parties agree that additional time will allow our respective attorneys to complete these papers more effectively.

We also request that the dates for motions *in limine* be adjusted from June 23, 2014 to August 8, 2014 and responses be adjusted from July 1, 2014 to September 5, 2014.

The current dates and the proposed dates requested are summarized as follows:

Pre-trial order and other pre-trial submissions - June 9, 2014 to July 9, 2014
Motions *in limine* - June 23, 2014 to August 8, 2014
Motions *in limine* responses - July 1, 2014 to September 5, 2014
Trial - July 1, 2014 to October 6, 2014

Counsel for the Sureties informs me that the Sureties consent to the requests made by Lockheed Martin and MTA.

In discussions with Your Honor's law clerk, we asked about the process by which exhibits are received into evidence. Are exhibits to the extent not objected to automatically entered into evidence or do the parties have to move for their admission by using them in a trial affidavit, a deposition designation or on cross-examination?

If possible, MTA's attorney, Ira Lipton, Esq., and I respectfully request that if Your Honor grants the request as outlined in this letter we be notified as soon as possible. We would like to inform our attorneys and support staff whether there is a need to continue working on the pretrial submissions currently due on June 9, 2014 through the holiday weekend.

Thank you for your courtesy and attention in this matter.

Respectfully submitted,



Michael Chartan

cc: Ira J. Lipton, Esq., Hoguet, Newman Regal and Kenney, LLP, for MTA (via email)
Adam P. Friedman, Esq., Wolff & Samson PC, for the Sureties (via email)